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Letter dated 10 March 2006 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

The Governing Council of the United Nations Compensation Commission has concluded its fifty-ninth session, which was held at Geneva from 7 to 9 March 2006.

During the opening plenary meeting, the Republic of the Congo was elected as a Vice-President of the Governing Council, and representatives of Kuwait, Iraq and India addressed the Council. Their statements are being sent by mail with the original of this letter.

During the session, the Council discussed the following issues and decided as follows:

To take note of the report of the Executive Secretary: summary of activities, covering the period from 15 November 2005 to 15 February 2006.

With respect to the issue of the shortfall to the Compensation Fund of approximately US$ 37.2 million, to request that the Executive Secretary follow up on his correspondence with the Controller; and to request that the issue be referred to the next informal meeting of the Working Group for further discussion regarding options for recovery of the shortfall.

To approve corrections to certain category A, C, D and E/F claims contained in the thirty-third report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.259 (2006)).

With respect to Kuwait's request for the return of confidential documents, to refer the issue to an informal meeting of the Working Group for further consideration and to request that the secretariat distribute documents comprising the arrangements between the secretariat and the Government of Kuwait for the Council's consideration.

With respect to the follow-up programme on environmental awards, to take note of the update provided by the secretariat on the status of the programme; to take note of the progress that was made at the second and third regional meetings of claimant Governments and Iraq, with the Commission as an observer, in setting up a regional programme; to note that the ongoing bilateral discussions between Iraq and Kuwait have resulted in the draft working paper on the creation and establishment of the Regional

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Environmental Remediation Programme between the claimant Governments and the Government of Iraq, which the Governing Council received and examined at the request of the Governments of Iraq and Kuwait; and to welcome the continuation of these bilateral discussions and regional initiatives and encourage the efforts of claimant Governments and Iraq in establishing the regional programme, to which Iraq will be provided the opportunity to present its war-related remediation projects.

With respect to the letter from the Minister for Foreign Affairs for Iraq dated 2 February 2006, addressed separately to Governing Council members, the Secretary-General and the Executive Secretary, to note that, as reflected in the executive summary of the third regional meeting, progress was made at the meeting on a number of issues raised in the letter and that negotiations are ongoing between Iraq and Kuwait on the issue of Iraq's remediation projects and to note that the Executive Secretary responded to the Minister's letter on 3 March 2006.

With respect to the request of the delegation of Iraq made at the opening plenary meeting and the note verbale from Iraq to the secretariat received on 7 March 2006 enclosing proposed amendments to the guidelines for the follow-up programme on environmental awards, to request that the secretariat contact Iraq's representatives in order to obtain clarification from Iraq on the proposed amendments; to request that the secretariat prepare an information note on the impact of the proposed amendments on the guidelines for the Council's consideration at a future informal meeting of the Working Group; to keep this issue on the agenda of the Governing Council; and to advise Iraq accordingly.

With respect to the issue of some public availability of the environmental monitoring and assessment databank, to note that discussions regarding the databank were ongoing among claimant Governments and Iraq and that a meeting of technical experts will be held in conjunction with the next regional meeting; to note that the executive summary of the third regional meeting reflects the Commission's willingness to transfer the contents of the UNEP database to the claimant Governments and the Governing Council's interest in allowing some public access to it; and to request that the secretariat provide further updates on this issue at the next session of the Governing Council.

To take note of the report of the Executive Secretary on the distribution of payments and transparency and the return of undistributed funds, and to request the secretariat to continue to inform the Governing Council of the reports of Governments and international organizations on the distribution of payments and the return of undistributed funds.

With respect to the issue of potential duplicate awards, to request that the secretariat expand its investigation to include family member searches and identify such claims for consideration at the session of the Governing Council in June; to refer the issue of what further action could be taken with respect to the results of such searches to a future informal meeting of the Working Group for further consideration; to request that article 41 corrections be undertaken with regard to all claims identified as having confirmed overpayments with the exception of family member matches and to consider their treatment at a future informal meeting of the Working Group; in making such corrections, to apply

the final guidelines proposed by the secretariat for match confirmation procedures and for determining and allocating overpayments; with respect to paid claims, to refer consideration of the options presented by the secretariat for the recovery of confirmed overpayments to the next informal meeting of the Working Group for further consideration; to request that the secretariat resume its review and payment of awards for which payment is requested following the location of previously unlocated claimants and awards scheduled for payment following a submitting entity's compliance with its reporting obligations, taking into account family member search results in conducting duplication checks; with respect to the current duplication-related suspensions on payments, to continue for the next payment round, scheduled to be made in April 2006, those suspensions on payments to Iran (Islamic Republic of) and to the late claims that were the subject of the report and recommendations of the D1 Panel of Commissioners concerning the late-filed category A and category C claims programme (S/AC.26/2005/2), without prejudice to any action that the Council may decide to take with respect to subsequent payment rounds; to request that the secretariat provide regular updates on its investigation at future informal meetings and to prepare a report on its findings for consideration at the next session of the Governing Council; and finally, to approve the request for the extension of staff necessary to perform the work outlined above.

To request that the secretariat write a further letter to the Government of Bangladesh regarding the exchange rates used for claims payment, reiterating the Council's position that losses sustained by the Government in exchanging dollars to taka could not be borne by individual claimants and that the total funds retained by the Government cannot exceed the 1.5 per cent processing fee as stated in Governing Council decision 18 and further that underpayments to individual claimants should be corrected as a matter of urgency.

To request that the secretariat write further follow-up letters to the Governments of Liberia, Senegal and the former Yugoslav Republic of Macedonia regarding non-compliance with the reporting requirements of decisions 18 and 48 setting a final deadline for reporting on the payment distribution, indicating that, should they fail to comply, the amounts for which they have not accounted must be returned to the Commission; to request that the secretariat prepare a note on all countries that have missed the deadlines for reporting on payment distribution for the Council's consideration at the next informal meeting of the Working Group; and to keep the issue on the agenda of the Governing Council.

To take note of the recommendations in the report of the United Nations Board of Auditors on the implementation of its recommendations relating to the Compensation Commission for the biennium 2002-2003 dated 7 December 2005; the secretariat's response thereto dated 30 December 2005; the audit by the Office of Internal Oversight Services of eligible category D Palestinian late claims dated 13 December 2005; the secretariat's response thereto dated 7 February 2006; the management letter from the Board of Auditors on the distribution of Compensation Commission payments to claimants (Kuwait and Jordan) dated 15 November 2005; and the secretariat's response thereto dated 15 December 2005.

With respect to recommendations 20 and 21 of the management letter from the United Nations Board of Auditors on the audit of the interim financial statements of the Compensation Commission dated 19 September 2005, considered by the Governing Council at the fifty-eighth session, to note that the secretariat has received a response to its request for clarification from the Board on its recommendations regarding audit certificates and that the Board has indicated that it will examine this issue more closely when it conducts its final audit of Compensation Commission accounts.

With respect to the proposed workplan of the Office of Internal Oversight Services for 2006, to note that the Office has proposed to continue its audit of claims processing notwithstanding the fact that claims processing has been concluded; to note that the Executive Secretary intends to take up the proposed workplan with the Office of Internal Oversight Services in New York, recalling that the Committee on Administrative Matters, at its eighteenth meeting in June 2005, in approving the audit posts requested by the Office, encouraged the Executive Secretary to continue his consultations with the Office with the expectation that the Executive Secretary and the Office would arrive at a mutually agreeable workplan for 2006; to request that the Executive Secretary seek clarification from the Office on the rationale for its proposed audit of claims processing; to request the secretariat to continue to provide updates on audit issues at future informal meetings of the Working Group; and to keep this issue on the agenda of the Governing Council.

With respect to the requests made by the delegation of India in its statement at the opening plenary meeting, to note that it has already considered the request that the date for the location and payment to unlocated claimants be extended at its fifty-eighth session; to urge the Government of India to expedite its efforts to locate claimants; to maintain its position that there should be no extension of the deadline of 30 September 2006; however, should there be a sudden large influx of repayment requests as the deadline approaches that could be documented by the Government concerned, to reconsider the request; with respect to India's request that the Governing Council consider accepting an additional few hundred claims for late filing, to decline the request, recalling decision 219 in which the Governing Council decided that it would not accept further late-filed claims; with respect to the request that the secretariat extend the deadline of 15 February 2006 imposed by the secretariat regarding confirmation of potential overpayments, to note that the secretariat would be sending further notes verbales to all affected Governments setting a new deadline for responding; and finally, with respect to the request that the Commission transfer the approximately US$ 30 million that is being held for unlocated claimants to an overseas escrow account so that the disbursement process can be expedited, to decline the request for a number of reasons, including the fact that the secretariat's duplication checks regarding repayable claims are ongoing.

Finally, that the sixtieth session of the Governing Council would be held from 27 to 29 June 2006, and the sixty-first session on 31 October and on 2 and 3 November 2006; and that informal meetings of the Working Group would be held between regular sessions of the Governing Council as required.

The Governing Council also heard a report from the Chairman of the Committee on Administrative Matters. The Committee held its nineteenth meeting at Geneva on 7 March 2006 to discuss proposed adjustments to the approved budget for the biennium 2006-2007 (S/AC.26/2006/R.8). The Committee noted that the proposed adjustments are acceptable as they can be accommodated within the current approved budget for the biennium 2006-2007 (S/AC.26/2005/R.24) through a redistribution of approved funds. The Committee also noted that there will be additional adjustments that are not contained in the report, including the extension of staff for the potential overpayment exercise under consideration by the Governing Council at the fifty-ninth session and the details of the budgetary implications for the successor arrangements for the second half of 2007, approved by the Governing Council at its fifty-eighth session, that are being prepared in consultation with the United Nations Office at Geneva. The Committee indicated its readiness to accept the additional adjustments for staffing the overpayment exercise and successor arrangements for the second half of 2007 to the extent that they could also be accommodated within the existing approved total budget, and requested that the Executive Secretary submit a consolidated revision of the budget for the biennium 2006-2007 for the consideration of the Committee on Administrative matters during the session of the Governing Council in June 2006, that reflects the necessary adjustments for the above-mentioned items as well as other items that the secretariat anticipates may arise over the course of the biennium.

As the Council was informed by the secretariat, the next round of payment, which would total some US$ 240 million if income to the Compensation Fund follows the existing trend, will be effected on 27 April 2006. On 28 February 2006 the balance of the Fund was approximately $163.5 million.

(*Signed*) Tassos **Kriekoukis**
President of the Governing Council

Annex

Documents before the Governing Council at its fifty-ninth session

1. Thirty-third report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/2006/1).

2. Decision concerning corrections of awards pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.259 (2006)).